

Shares and their Sale & Purchase ♦

One modern technique of capital generation for huge business ventures is the mobilization of funds from common men by way of offering them share in the promoting company. The shareholders of such a company have an option of selling their shares at any time directly to the company or to any person or business concerns at an appropriate price. The liberty to sell and purchase the share of a company has led to another aspect of the share market that is some people manipulate the prices of the upward or downward share market and almost turn the otherwise a simple business activity into gambling. The complexity of the share market and the involved Islamic issues prompted to take the concerning matters in the Ninth Seminar of the IFA, which provided the following guidelines in this regard.

- 8.1 Equity share in a company is a proof of limited ownership of the shareholder in the company and not a mere indication that he has invested that much amount in it.
- 8.2 The buying of shares of the companies in their initial stages, which are in the process of collecting their capital, is not buying; rather it is participating or having a share in the company, from the Shariah point of view.
- 8.3 Generally, the other properties of the company have more value than it's capital. That's precisely why it is sound to purchase the shares of a company. Nevertheless, if it is known that the amount to be paid is either less than or equal to the face value of shares, then under these circumstances it would not be correct to buy these shares at a price less than or more than it's fixed amount.
- 8.4 The buying and selling of shares of the companies, which indulge in impermissible businesses, like that of liquor, pork or interest-bearing loans are strictly invalid and impermissible.
- 8.5 It has been observed that the establishment of companies, which would conduct business purely on Islamic lines, is feasible in India. The Seminar urges the Muslim traders and prominent economists to feel their religious responsibilities and strive to set up such business houses, which would work solely on Islamic lines. Nevertheless, since such companies have not

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been established in India that work strictly on Islamic lines as yet or even if present they are still negligibly small in number, therefore, those Muslims who have capital and are unable to invest in valid and permissible business ventures owing to certain circumstances, can purchase the shares of the companies carrying permissible businesses (for example, manufacturing of engineering instruments or items of general use) even if they have to indulge in interest transactions owing to legal liabilities and constraints.

- 8.6 Muslims holding shares in such companies, whose prime business is permissible, although they are, incidentally, involved in certain impermissible practices, should try and forbid the company from such impermissible practices in future at the annual general meetings of shareholders. Furthermore, they should convince other shareholders through mutual discussions too in order to garner their support during the meeting.
- 8.7 In case, interest is a part of the profits earned by the company in a fiscal year and it's quantity is known, then it should be deducted from the profits earned by the shareholders and should be given away in charity (*Sadqah*) without expecting any recompense for it.
- 8.8 In case, interest is a part of the profits reaped by the company, thereafter the interest-included income is invested in a business venture, and profits, thus, earned out of it, then the interest shall be excluded from the profit earned proportionately and it should be given away as charity without expecting any recompense.¹
- 8.9 A company is a legal entity, which represents the collective status of the shareholders. The Board of Directors is a group of people elected by the company, which expends on behalf of the company and in this way enjoys the status of an authorized representative of the shareholders. Moreover, it is incumbent upon all the shareholders to share the liabilities of expenditure of the Board of Directors; provided they are in conformity with the rules and regulations, laid down by the company.
- 8.10 It is quite right to trade in the shares of those companies, which undertake, solely, permissible business.
- 8.11 The future sale, the prime objective of which is not meant to buy shares rather to neutralize their losses and gains with fluctuating values of shares is actually an interest-bearing business. It is quite invalid in the eyes of Islamic Shariah because it is an explicit and apparent form of gambling.

¹ As to the clauses 7 & 8 mentioned above, Ml. Rais-ul- Ahrar Nadvi is of the opinion that such interest should be shelled out to non-Muslims alone.

- 8.12 The forward sale in which the sale does take place but the actual implementation of the transaction takes place in future, is not a sale rather, is an agreement to sell. The actual sale would take place only after the offer and its acceptance on the scheduled date.
- 8.13 It would not be valid to sell off the shares before getting the share certificates in a cash/spot sale.
- 8.14 The shareholder becomes the legal and authorized holder of the shares, once he gets the share certificates. He can sell off his shares even if his name has not been endorsed with the company due to certain official impediments.
- 8.15 It is obviously proper to act as a broker in those transactions in which the buying or selling of shares is permitted. On the contrary, it is not permissible for a person to act as a broker in the transactions of those companies, which undertake any impermissible business.
- 8.16 An Islamic financial institution or the Muslims in general can purchase equity shares of such companies, which do purely *Halāl* business.
- 8.17 Investing in share of such companies that undertake solely *Harām* business is totally impermissible.